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§ 19.12 Exceptions to general prohibitions.

The prohibitions of the preceding section shall not apply to any person who:

(1) Is acting within the scope of his official duties as an employee or authorized agent of a State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life or crops; or

(2) Is acting within the limitations of a permit referred to in § 19.21 or § 19.31 of this part.

Subpart C—Federal Permits

§ 19.21 Limitation on Federal permits.

No Federal permits will be issued to authorize any person to hunt, shoot, or harass any wildlife from an aircraft, except for Federal permits to scare or herd migratory birds referred to in § 21.41 of this subchapter.

Subpart D—State Permits and Annual Report Requirements

§ 19.31 State permits.

(a) Except as provided in § 19.3, States may issue permits to persons to engage in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops. States may not issue permits for the purpose of sport hunting.

(b) Upon issuance of a permit by a State to a person pursuant to this section, the issuing authority will provide immediate notification to the Special Agent in Charge having jurisdiction according to § 10.22.

§ 19.32 Annual reporting requirements.

(a) Any State issuing permits to persons to engage in airborne hunting or harassing of wildlife or any State whose employees or agents participate in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops, shall file with the Director, an annual report on or before July 1 for the preceding calendar year ending December 31.

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(b) The annual report required by this section shall contain the following information as to each such permit issued:

(1) The name and address of each person to whom a permit was issued.

(2) Permit number and inclusive dates during which permit was valid.

(3) The aircraft number of the aircraft used and the location where such aircraft was based.

(4) Common name and number of the wildlife for which authorization to take was given and a description of the area from which the wildlife were authorized to be taken.

(5) The purpose for which the permit was issued, specifically identifying whether the permit was issued to protect land, water, wildlife, livestock, domestic animals, crops, or human life.

(6) The common name and number of wildlife taken by permittees and State employees or agents.

(c) A compilation of all annual reports required by this section shall be made by the Director and furnished to any State filing such annual report.

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AUTHORITY: 16 U.S.C. 703 *et seq.*, and 16 U.S.C. 742a–j.

SOURCE: 38 FR 22021, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction

§ 20.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate only to the hunting of migratory game birds, and crows.

(b) *Procedural and substantive requirements.* Migratory game birds may be taken, possessed, transported, shipped, exported, or imported only in accordance with the restrictions, conditions, and requirements contained in this part. Crows may be taken, possessed, transported, exported, or imported only in accordance with subpart H of this part and the restrictions, conditions, and requirements prescribed in § 20.133.

§ 20.2 Relation to other provisions.

(a) *Migratory bird permits.* The provisions of this part shall not be construed to alter the terms of any permit or other authorization issued pursuant to part 21 of this subchapter.

(b) *Migratory bird hunting stamps.* The provisions of this part are in addition

to the provisions of the Migratory Bird Hunting Stamp Act of 1934 (48 Stat. 451, as amended; 16 U.S.C. 718a).

(c) *National wildlife refuges.* The provisions of this part are in addition to, and are not in lieu of, any other provision of law respecting migratory game birds under the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927, as amended; 16 U.S.C. 668dd) or any regulation made pursuant thereto.

(d) *State Laws for the protection of migratory birds.* No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this part, however, nothing in this part shall be construed to prevent the several States from making and enforcing laws or regulations not inconsistent with these regulations and the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act, or which shall give further protection to migratory game birds.

(e) *Migratory bird subsistence harvest in Alaska.* The provisions of this part, except for paragraphs (a) through (d) of this section, are not applicable to the regulations governing the migratory bird subsistence harvest in Alaska (part 92 of this subchapter) unless specifically referenced in part 92 of subchapter G of this chapter.

[38 FR 22021, Aug. 15, 1973, as amended at 68 FR 43027, July 21, 2003]

Subpart B—Definitions

§ 20.11 What terms do I need to understand?

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Migratory game birds* means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed in this part and belong to the following families:

- (1) Anatidae (ducks, geese [including brant] and swans);
- (2) Columbidae (doves and pigeons);
- (3) Gruidae (cranes);

(4) Rallidae (rails, coots and gallinules); and

(5) Scolopacidae (woodcock and snipe).

A list of migratory birds protected by the international conventions and the Migratory Bird Treaty Act appears in § 10.13 of this subchapter.

(b) *Seasons*—(1) *Open season* means the days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

(2) *Closed season* means the days on which migratory game birds shall not be taken.

(c) *Bag limits*—(1) *Aggregate bag limit* means a condition of taking in which two or more usually similar species may be bagged (reduced to possession) by the hunter in predetermined or unpredetermined quantities to satisfy a maximum take limit.

(2) *Daily bag limit* means the maximum number of migratory game birds of single species or combination (aggregate) of species permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

(3) *Aggregate daily bag limit* means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area and/or for more than one species for which a combined daily bag limit is prescribed. The aggregate daily bag limit is equal to, but shall not exceed, the largest daily bag limit prescribed for any one species or for any one specified geographic area in which taking occurs.

(4) *Possession limit* means the maximum number of migratory game birds of a single species or a combination of species permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

(5) *Aggregate possession limit* means the maximum number of migratory game birds of a single species or combination of species taken in the United States permitted to be possessed by

any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the species or specified geographic areas in which taking and possession occurs.

(d) *Personal abode* means one's principal or ordinary home or dwelling place, as distinguished from one's temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent or trailer house used as a hunting club, or any hotel, motel or rooming house used during a hunting, pleasure or business trip.

(e) *Migratory bird preservation facility* means:

(1) Any person who, at their residence or place of business and for hire or other consideration; or

(2) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or

(3) Any hunting club which, in the normal course of operations; receives, possesses, or has in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage or shipment.

(f) *Paraplegic* means an individual afflicted with paralysis of the lower half of the body with involvement of both legs, usually due to disease of or injury to the spinal cord.

(g) *Normal agricultural planting, harvesting, or post-harvest manipulation* means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

(h) *Normal agricultural operation* means a normal agricultural planting, harvesting, post-harvest manipulation, or agricultural practice, that is conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture.

(i) *Normal soil stabilization practice* means a planting for agricultural soil erosion control or post-mining land reclamation conducted in accordance with official recommendations of State Extension Specialists of the Cooperative Extension Service of the U.S. Department of Agriculture for agricultural soil erosion control.

(j) *Baited area* means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.

(k) *Baiting* means the direct or indirect placing, exposing, depositing, distributing, or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on, or over any areas where hunters are attempting to take them.

(l) *Manipulation* means the alteration of natural vegetation or agricultural crops by activities that include but are not limited to mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. The term *manipulation* does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.

(m) *Rice ratooning* means the agricultural practice of harvesting rice by cutting the majority of the above-ground portion of the rice plant but leaving the roots and growing shoot apices intact to allow the plant to recover and produce a second crop yield.

(n) *Post-disaster flooding* means the destruction of a crop through flooding in accordance with practices required by the Federal Crop Insurance Corporation for agricultural producers to obtain crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 *et seq.*) on land on which a crop was not harvestable due to a natural disaster (including any hurricane, storm, tornado, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide,

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mudslide, drought, fire, snowstorm, or other catastrophe that is declared a major disaster by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170)) in the crop year—

(1) In which the natural disaster occurred; or

(2) Immediately preceding the crop year in which the natural disaster occurred.

(c) *Natural vegetation* means any non-agricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. The term *natural vegetation* does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered *natural vegetation*.

(p) *Resident Canada geese* means Canada geese that nest within the lower 48 States and the District of Columbia or that reside within the lower 48 States and the District of Columbia in the months of April, May, June, July, or August.

[53 FR 24290, June 28, 1988, as amended at 64 FR 29804, June 3, 1999; 71 FR 45986, Aug. 10, 2006; 72 FR 46407, Aug. 20, 2007; 84 FR 28773, June 20, 2019; 84 FR 38885, Aug. 8, 2019]

Subpart C—Taking

§ 20.20 Migratory Bird Harvest Information Program.

(a) *Information collection requirements.* The collections of information contained in § 20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0015. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from licensed hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 2 minutes per response for 3,300,000 respondents, including the time for reviewing instructions, searching existing data sources, gath-

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ering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total annual reporting and record-keeping burden for this collection is estimated to be 112,000 hours. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Service's Information Collection Clearance Officer at the address provided at 50 CFR 2.1(b).

(b) *General provisions.* Each person hunting migratory game birds in any State except Hawaii must have identified himself or herself as a migratory bird hunter and given his or her name, address, and date of birth to the respective State hunting licensing authority and must have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) *Tribal exemptions.* Nothing in paragraph (b) of this section shall apply to tribal members on Federal Indian Reservations or to tribal members hunting on ceded lands.

(d) *State exemptions.* Nothing in paragraph (b) of this section shall apply to those hunters who are exempt from State-licensing requirements in the State in which they are hunting.

(e) *State responsibilities.* The State hunting licensing authority will ask each licensed migratory bird hunter in the respective State to report approximately how many ducks, geese, doves, and woodcock he or she bagged the previous year, whether he or she hunted coots, snipe, rails, and/or gallinules the previous year, and, in States that have band-tailed pigeon hunting seasons, whether he or she intends to hunt band-tailed pigeons during the current year.

[58 FR 15098, Mar. 19, 1993, as amended at 59 FR 53336, Oct. 21, 1994; 61 FR 46352, Aug. 30, 1996; 62 FR 45708, Aug. 28, 1997; 63 FR 46401, Sept. 1, 1998; 79 FR 43965, July 29, 2014]

§ 20.21 What hunting methods are illegal?

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No persons shall take migratory game birds:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine-gun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. However, this restriction does not apply during:

(1) A light-geese-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

(2) A Canada goose only season when all other waterfowl and crane hunting seasons, excluding falconry, are closed in the Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, as set forth below:

(i) During the period of September 1 to September 15, when approved in the annual regulatory schedule in subpart K of this part; and

(ii) During the period of September 16 to September 30, when approved in the annual regulatory schedule in subpart K of this part.

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(e) From or by means of any motorboat or other craft having a motor at-

tached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: *Provided*, That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power except in the seaduck area as permitted in subpart K of this part;

(f) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. However, this restriction does not apply during:

(1) A light-geese-only season (greater and lesser snow geese and Ross' geese) when all other waterfowl and crane hunting seasons, excluding falconry, are closed.

(2) A Canada goose only season when all other waterfowl and crane hunting seasons, excluding falconry, are closed in the Atlantic, Central, and Mississippi Flyway portions of Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming, as set forth below:

(i) During the period of September 1 to September 15, when approved in the annual regulatory schedule in subpart K of this part; and

(ii) During the period of September 16 to September 30, when approved in the

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annual regulatory schedule in subpart K of this part.

(h) By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(i) By the aid of baiting, or on or over any baited area, where a person knows or reasonably should know that the area is or has been baited. However, nothing in this paragraph prohibits:

(1) the taking of any migratory game bird, including waterfowl, coots, and cranes, on or over the following lands or areas that are not otherwise baited areas—

(i) Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation, rice ratooning, post-disaster flooding, or normal soil stabilization practice;

(ii) From a blind or other place of concealment camouflaged with natural vegetation;

(iii) From a blind or other place of concealment camouflaged with vegetation from agricultural crops, as long as such camouflaging does not result in the exposing, depositing, distributing or scattering of grain or other feed; or

(iv) Standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.

(2) The taking of any migratory game bird, except waterfowl, coots and cranes, on or over lands or areas that are not otherwise baited areas, and where grain or other feed has been distributed or scattered solely as the result of manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

(j)(1) While possessing loose shot for muzzle loading or shotshells containing other than the following approved shot types.

Approved shot type*	Percent composition by weight	Field testing device**
Bismuth-tin	97 bismuth, and 3 tin	Hot Shot®***
Iron (steel)	iron and carbon	Magnet or Hot Shot®.
Iron-tungsten	any proportion of tungsten, and ≥1 iron	Magnet or Hot Shot®.
Iron-tungsten-nickel	≥1 iron, any proportion of tungsten, and up to 40 nickel	Magnet or Hot Shot®.
Copper-clad iron	84 to 56.59 iron core, with copper cladding up to 44.1 of the shot mass.	Magnet or Hot Shot®
Corrosion-inhibited copper	≥99.9 copper with benzotriazole and thermoplastic fluorescent powder coatings.	Ultraviolet Light.
Tungsten-bronze	51.1 tungsten, 44.4 copper, 3.9 tin, and 0.6 iron, or 60 tungsten, 35.1 copper, 3.9 tin, and 1 iron.	Rare Earth Magnet.
Tungsten-iron-copper-nickel	40–76 tungsten, 10–37 iron, 9–16 copper, and 5–7 nickel	Hot Shot® or Rare Earth Magnet.
Tungsten-matrix	95.9 tungsten, 4.1 polymer	Hot Shot®.
Tungsten-polymer	95.5 tungsten, 4.5 Nylon 6 or 11	Hot Shot®.
Tungsten-tin-iron	any proportions of tungsten and tin, and ≥1 iron	Magnet or Hot Shot®.
Tungsten-tin-bismuth	any proportions of tungsten, tin, and bismuth	Rare Earth Magnet.
Tungsten-tin-iron-nickel	65 tungsten, 21.8 tin, 10.4 iron, and 2.8 nickel	Magnet.
Tungsten-iron-polymer	41.5–95.2 tungsten, 1.5–52.0 iron, and 3.5–8.0 fluoropolymer	Rare Earth Magnet or Hot Shot®.

* Coatings of copper, nickel, tin, zinc, zinc chloride, zinc chrome, fluoropolymers, and fluorescent thermoplastic on approved nontoxic shot types also are approved.

** The information in the “Field Testing Device” column is strictly informational, not regulatory.

*** The “HOT*SHOT” field testing device is from Stream Systems of Concord, CA.

(2) Each approved shot type must contain less than 1 percent residual lead (*see* § 20.134).

(3) This shot type restriction applies to the taking of ducks, geese (including brant), swans, coots (*Fulica americana*), and any other species that make up aggregate bag limits with these migratory game birds during concurrent seasons in areas described in § 20.108 as nontoxic shot zones.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22896, Aug. 27, 1973; 44 FR 2599, Jan. 12, 1979; 45 FR 70275, Oct. 23, 1980; 49 FR 4079, Feb. 2, 1984; 52 FR 27364, July 21, 1987; 53 FR 24290, June 28, 1988; 60 FR 64, Jan. 3, 1995; 60 FR 43316, Aug. 18, 1995; 61 FR 42494, Aug. 15, 1996; 62 FR 43447, Aug. 13, 1997; 64 FR 29804, June 3, 1999; 64 FR 32780, June 17, 1999; 64 FR 45405, Aug. 19, 1999; 64 FR 71237, Dec. 20, 1999; 65 FR 53940, Sept. 6, 2000; 66 FR 742, Jan. 4, 2001; 66 FR 32265, June 14, 2001; 68 FR 1392, Jan. 10, 2003; 69 FR 48165, Aug. 9, 2004; 70 FR 49196, Aug. 23, 2005; 71 FR 4297, Jan. 26, 2006; 71 FR 45986, Aug. 10, 2006; 72 FR 46407, Aug. 20, 2007; 73 FR 65277, Nov. 3, 2008; 73 FR 70914, Nov. 24, 2008; 74 FR 53671, Oct. 20, 2009; 74 FR 57615, Nov. 9, 2009; 78 FR 65575, Nov. 1, 2013; 82 FR 51362, Nov. 6, 2017; 84 FR 38885, Aug. 8, 2019]

§ 20.22 Closed seasons.

No person shall take migratory game birds during the closed season except as provided in part 21 of this chapter.

[73 FR 65951, Nov. 5, 2008]

§ 20.23 Shooting hours.

No person shall take migratory game birds except during the hours open to shooting as prescribed in subpart K of this part and subpart E of part 21 of this chapter.

[73 FR 65951, Nov. 5, 2008]

§ 20.24 Daily limit.

No person shall take in any 1 calendar day, more than the daily bag limit or aggregate daily bag limit, whichever applies.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22626, Aug. 23, 1973]

§ 20.25 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird, and retain it

in his actual custody, at the place where taken or between that place and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

[41 FR 31536, July 29, 1976]

§ 20.26 Emergency closures.

(a) The Director may close or temporarily suspend any season established under subpart K of this part:

(1) Upon a finding that a continuation of such a season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird populations.

(2) Upon issuance of local public notice by such means as publication in local newspapers of general circulation, posting of the areas affected, notifying the State wildlife conservation agency, and announcement on local radio and television.

(b) Any such closure or temporary suspension shall be announced by publication of a notice to that effect in the FEDERAL REGISTER simultaneous with the local public notice referred to in paragraph (a)(2) of this section. However, in the event that it is impractical to publish a FEDERAL REGISTER notice simultaneously, due to the restriction in time available and the nature of the particular emergency situation, such notice shall follow the steps outlined in paragraph (a) of this section as soon as possible.

(c) Any closure or temporary suspension under this section shall be effective on the date of publication of the FEDERAL REGISTER notice; or if such notice is not published simultaneously, then on the date and at the time specified in the local notification to the public. Every notice of closure shall include the date and time of closing of the season and the area or areas affected. In the case of a temporary suspension, the date and time when the season may be resumed shall be provided by a subsequent local notification to the public, and by publication in the FEDERAL REGISTER.

[41 FR 31536, July 29, 1976]

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Subpart D—Possession

§ 20.31 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.32 During closed season.

No person shall possess any freshly killed migratory game birds during the closed season.

§ 20.33 Possession limit.

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

§ 20.34 Opening day of a season.

No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

§ 20.35 Field possession limit.

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

[41 FR 31536, July 29, 1976]

§ 20.36 Tagging requirement.

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his address, the total number and species of birds, and the date such birds were

killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

§ 20.37 Custody of birds of another.

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.38 Possession of live birds.

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under authority of this part.

§ 20.39 Termination of possession.

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

[41 FR 31537, July 29, 1976]

§ 20.40 Gift of migratory game birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

[42 FR 39668, Aug. 5, 1977]

Subpart E—Transportation Within the United States

§ 20.41 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, transport

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any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.42 Transportation of birds of another.

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.44 Marking package or container.

No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart F—Exportation

§ 20.51 Prohibited if taken in violation of subpart C.

No person shall at any time, by any means, or in any manner, export or cause to be exported, any migratory game bird or part thereof, taken in violation of any provision of subpart C of this part.

§ 20.52 Species identification requirement.

No person shall export migratory game birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

§ 20.53 Marking package or container.

No person shall export migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart G—Importations

§ 20.61 Importation limits.

No person shall import migratory game birds in excess of the following importation limits:

(a) *Doves and pigeons.* (1) From any foreign country except Mexico, during any one calendar week beginning on Sunday, not to exceed 25 doves, singly or in the aggregate of all species, and 10 pigeons, singly or in the aggregate of all species.

(2) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

(b) *Waterfowl.* (1) From any foreign country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species.

(2) From Canada, not to exceed the maximum number permitted to be exported by Canadian authorities.

(3) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

[40 FR 36346, Aug. 20, 1975]

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§ 20.62 Importation of birds of another.

No person shall import migratory game birds belonging to another person.

§ 20.63 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.64 Foreign export permits.

No person shall import, possess or transport, any migratory game birds killed in a foreign country unless such birds are accompanied by export permits, tags, or other documentation required by applicable foreign laws or regulations.

§ 20.65 Processing requirement.

No person shall import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in § 20.63), drawn, and the head and feet are removed: *Provided*, That this shall not prohibit the importation of legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to § 21.24 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds.

§ 20.66 Marking of package or container.

No person shall import migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

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Subpart H—Federal, State, and Foreign Law

§ 20.71 Violation of Federal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

§ 20.72 Violation of State law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

§ 20.73 Violation of foreign law.

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.

Subpart I—Migratory Bird Preservation Facilities

§ 20.81 Tagging requirement.

No migratory bird preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required by § 20.36.

[41 FR 31537, July 29, 1976]

§ 20.82 Records required.

(a) No migratory bird preservation facility shall:

(1) Receive or have in custody any migratory game bird unless accurate records are maintained which can identify each bird received by, or in the custody of, the facility by the name of the person from whom the bird was obtained, and show (i) the number of each species; (ii) the location where taken; (iii) the date such birds were received; (iv) the name and address of the person from whom such birds were received; (v) the date such birds were disposed of; and (vi) the name and address of the

person to whom such birds were delivered, or

(2) Destroy any records required to be maintained under this section for a period of 1 year following the last entry on the record.

(b) Record keeping as required by this section will not be necessary at hunting clubs which do not fully process migratory birds by removal of both the head and wings.

[41 FR 38510, Sept. 10, 1976]

§ 20.83 Inspection of premises.

No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried.

[41 FR 31537, July 19, 1976]

Subpart J—Feathers or Skins

§ 20.91 Commercial use of feathers.

Any person may possess, purchase, sell, barter, or transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses the feathers of migratory waterfowl (ducks, geese, brant, and swans) killed by hunting pursuant to this part, or seized and condemned by Federal or State game authorities, except that:

(a) No person shall purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds taken under authority of this part; and

(b) No person shall purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds taken under authority of this part.

[38 FR 22021, Aug. 15, 1973, as amended at 45 FR 70275, Oct. 23, 1980]

§ 20.92 Personal use of feathers or skins.

Any person for his own use may possess, transport, ship, import, and export without a permit the feathers and skins of lawfully taken migratory game birds.

Subpart K—Annual Seasons, Limits, and Shooting Hours Schedules

§ 20.100 General provisions.

(a) The taking, possession, transportation, and other uses of migratory game birds by hunters is generally prohibited unless it is specifically provided for under regulations developed in accordance with the Migratory Bird Treaty Act. Consequently, hunting is prohibited unless regulatory schedules are established for seasons, daily bag and possession limits, and shooting (or hawking) hours. Migratory game bird population levels, including production and habitat conditions, vary annually. These conditions differ over North America, and within the United States, by flyways, States, and frequently areas within States. Thus, it is necessary to make annual adjustments in the schedules to limit the harvests of migratory game birds to permissible levels.

(b) The development of these schedules involves annual data gathering programs to determine migratory game bird population status and trends, evaluations of habitat conditions, harvest information, and other factors having a bearing on the anticipated size of the fall flights of these birds. The proposed hunting schedules are announced early in the spring, and following consideration of additional information as it becomes available, as well as public comment, they are modified and published as supplemental proposals. These are also open to public comment. Public hearings are held for the purpose of providing additional opportunity for public participation in the rulemaking process.

[44 FR 7147, Feb. 6, 1979]

§ 20.101 Seasons, limits and shooting hours for Puerto Rico and the Virgin Islands.

This section provides for the annual hunting of certain doves, pigeons, ducks, coots, gallinules and snipe in Puerto Rico; and for certain doves, pigeons and ducks in the Virgin Islands. In these Commonwealths, the hunting of waterfowl and coots (and other certain species, as applicable) must be

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with the use of nontoxic shot beginning in the 1991–92 waterfowl season.

[53 FR 24290, June 28, 1988]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.102 Seasons, limits, and shooting hours for Alaska.

This section provides for the annual hunting of certain waterfowl (ducks, tundra swans, geese, and brant), common snipe, and sandhill cranes in Alaska. In Alaska, the hunting of waterfowl must be with the use of nontoxic shot beginning in the 1991–92 waterfowl season.

[55 FR 35267, Aug. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

This section provides for the annual hunting of certain doves and pigeons in the 48 contiguous United States. The mourning dove hunting regulations are arranged by the Eastern, Central, and Western Management Units.

[44 FR 7147, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

This section provides for the annual hunting of certain rails, woodcock, and snipe in the 48 contiguous United States.

[44 FR 7148, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

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§ 20.105 Seasons, limits and shooting hours for waterfowl, coots, and gallinules.

This section provides for the annual hunting of certain waterfowl (ducks, geese [including brant]), coots and gallinules in the 48 contiguous United States. The regulations are arranged by the Atlantic, Mississippi, Central and Pacific Flyways. These regulations often vary within Flyways or States, and by time periods. Those areas of the United States outside of State boundaries, *i.e.*, the United States' territorial waters seaward of county boundaries, and including coastal waters claimed by the separate States, if not already included under the zones contained in § 20.108, are designated for the purposes of § 20.21(j) as nontoxic shot zones for waterfowl hunting beginning in the 1991–92 season.

[53 FR 24290, June 28, 1988, as amended at 56 FR 22102, May 13, 1991]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

This section provides for the annual hunting of sandhill cranes in designated portions of the 48 contiguous United States.

[55 FR 35267, Aug. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.107 Seasons, limits, and shooting hours for tundra swans.

This section provides for the annual hunting of tundra swans in designated portions of the 48 contiguous United States.

[55 FR 39829, Sept. 28, 1990]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.108 Nontoxic shot zones.

Beginning September 1, 1991, the contiguous 48 United States, and the States of Alaska and Hawaii, the Territories of Puerto Rico and the Virgin Islands, and the territorial waters of the United States, are designated for the purpose of § 20.21(j) as nontoxic shot zones for hunting waterfowl, coots and certain other species. "Certain other species" refers to those species, other than waterfowl or coots, that are affected by reason of being included in aggregate bags and concurrent seasons.

[56 FR 22102, May 13, 1991]

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

This section provides annual regulations by which falconers may take permitted migratory game birds.

[44 FR 7148, Feb. 6, 1979]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

This section provides for establishing annual migratory bird hunting regulations for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands.

[50 FR 35764, Sept. 3, 1985]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

Subpart L—Administrative and Miscellaneous Provisions**§ 20.131 Extension of seasons.**

Whenever the Secretary shall find that emergency State action to prevent forest fires in any extensive area has resulted in the shortening of the season during which the hunting of any species of migratory game bird is permitted and that compensatory exten-

sion or reopening the hunting season for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Secretary upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The length of the extended or reopened season in no event shall exceed the number of days during which hunting has been so prohibited. The extended or reopened season will be publicly announced.

§ 20.132 Subsistence use in Alaska.

In Alaska, any person may, for subsistence purposes, take, possess, and transport, in any manner, from September 1 through April 1, snowy owls and cormorants for food and their skins for clothing, but birds and their parts may not be sold or offered for sale.

[68 FR 43027, July 21, 2003]

§ 20.133 Hunting regulations for crows.

(a) Crows may be taken, possessed, transported, exported, or imported, only in accordance with such laws or regulations as may be prescribed by a State pursuant to this section.

(b) Except in the State of Hawaii, where no crows shall be taken, States may by statute or regulation prescribe a hunting season for crows. Such State statutes or regulations may set forth the method of taking, the bag and possession limits, the dates and duration of the hunting season, and such other regulations as may be deemed appropriate, subject to the following limitations for each State:

(1) Crows shall not be hunted from aircraft;

(2) The hunting season or seasons on crows shall not exceed a total of 124 days during a calendar year;

(3) Hunting shall not be permitted during the peak crow nesting period within a State; and

(4) Crows may only be taken by firearms, bow and arrow, and falconry.

§ 20.134 Approval of nontoxic shot types and shot coatings.

The U.S. Fish and Wildlife Service conducts a process to approve shot material determined not to impose a significant toxicity danger to migratory birds and other wildlife or their habitats. The regulations in this section set forth the approval process. Upon receipt of an application and supporting data submitted in accordance with this section, the Service will review the application materials together with all other relevant available evidence, including public comment. If the Director concludes that the spent shot material will not present a significant toxicity danger to migratory birds and other wildlife or their habitats, we will add the shot material to the list of approved nontoxic shot materials at 50 CFR 20.21(j).

(a) *Information collection approval.* The Office of Management and Budget approved the information collection requirements contained in this section under 44 U.S.C. 3501 *et seq.* and assigned OMB Control No. 1018–0067. We collect this information so that we can conduct a methodical and objective review of a shot type you submit as nontoxic for hunting waterfowl. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may submit comments on this information collection to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240.

(b) *Limitations on nontoxic shot type approval.* We will not approve as nontoxic any shot type or shot coating with a lead content of 1 percent or more.

(1) Before we will approve any shot type or shot coating as nontoxic, a shotshell loaded with the shot type or coated shot must be demonstrated to be identifiable as not being lead in a portable field testing device for use by enforcement officers.

(2) The testing device can be regular magnets, rare-earth magnets, or the “HOT*SHOT” field-testing device from Stream Systems of Concord, CA. We will consider other field-testing devices

that may be readily available to law enforcement officers.

(c) *Application submission and review.* We use a 3-tier strategy for approval of nontoxic shot types and shot coatings. You must submit any application for approval under this section with supporting documentation in accordance with the following procedures and must include at least the supporting materials and information for Tier 1 in the approval system. If your application is not complete, we will return it to you with an explanation of the additional information we need to initiate review of your submission.

(d) *Tier 1 application fee.* The fee for consideration of a Tier 1 application is \$1,630. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(e) *Tier 1 application.* If you wish to submit a shot type or shot coating for consideration as nontoxic for waterfowl hunting, you must provide statements of use, chemical characterization, production variability, volume of use of the candidate material, and a sample of the shot or shot coating.

(1) Provide a statement of how you propose to use the candidate material in creating waterfowl hunting shotshells.

(2) Provide a description of the chemical composition of the material comprising the shot.

(i) Provide the chemical names, Chemical Abstracts Service numbers (consult the American Chemical Society), and structures of the components of the shot.

(ii) Provide a chemical characterization for organics and organometallics for the core and/or coating, including the empirical formula, melting point, molecular weight, solubility, specific gravity, partition coefficients, hydrolysis half-life, leaching rate in water and in soil, degradation half-life, vapor pressure, stability, and other relevant characteristics for each component.

(iii) Provide data on the composition, weight, and sectional density of the shot material.

(iv) Provide data on the thickness, quantity in milligrams (mg) per shot, and chemical composition of any coating on the shot.

(3) Provide documentation that the shot can be readily identified as nontoxic with a standard field shotshell testing device.

(4) Provide a statement of the hardness of the candidate shot type and the method used to determine the hardness.

(5) Provide a statement of the expected variability of shot during production.

(6) Provide an estimate of yearly volume of candidate shot type and/or coated shot expected to be produced for use in hunting migratory birds in the United States.

(7) Provide 5 pounds (approximately 2.18 kilograms (kg)) of the candidate shot type or shot with the proposed coating in size equivalent to U.S. standard size No. 4 of 0.13 inches (approximately 3.3 millimeters (mm)) in diameter.

(i) We or an independent laboratory may analyze the composition of the shot or the shot coating.

(ii) We will reject your application if the composition of the shot or shot coating differs substantially from what you describe in your application.

(f) *Toxicological effects.* You must provide information on the toxicological effects of the shot or any coating on it.

(1) Provide a summary of the acute and chronic toxicity data of the metals or compounds in the shot or the shot coating, ranking the toxicity of each. Use the following criteria to assess the toxicity of the shot or shot coating. These criteria are based on the estimated median lethal dose of the candidate shot type or shot coating. That is, the statistically derived single dose estimate of the candidate material that can be expected to cause death in 50 percent of the animals tested (LD50).

If the LD50 is	the material is considered
no more than 5 mg/kg,	super toxic.
over 5 to 50 mg/kg,	extremely toxic.
over 50 to 500 mg/kg,	very toxic.
over 500 to 5,000 mg/kg,	moderately toxic.
over 5,000 to 15,000 mg/kg, ..	slightly toxic.
over 15,000 mg/kg,	nontoxic.

(2) Provide a summary of known acute, chronic, and reproductive toxicological data of the chemicals comprising the shot or shot coating with respect to birds, particularly water-

fowl. Include LD50 or LC50 (concentrations in water lethal to 50 percent of test populations) data, and sublethal effects, with citations.

(3) Provide a narrative description, with citations to relevant data, predicting the toxic effect in waterfowl of complete erosion and absorption of one shot or coated shot in a 24-hour period. Define the nature of the toxic effect, such as mortality, impaired reproduction, substantial weight loss, disorientation, or other relevant associated clinical observations.

(4) Provide a statement with supporting rationale and citations to relevant data about whether ingestion of the shot or shot coating by invertebrates, fish, amphibians, reptiles, or mammals is cause for concern. If there is a recognized impact on invertebrates, fish, amphibians, reptiles, or mammals, we reserve the right to require additional study of the shot or shot coating.

(g) *Environmental fate and transport.* You must provide information on the environmental fate and transport, if any, of the shot and any coating on it.

(1) Provide a statement describing any chemical or physical alteration of the shot and shot coating upon firing.

(2) Provide an estimate of the environmental half-life of the organic or organometallic components of the shot and shot coating, and a description of the chemical form of the breakdown products of the component(s).

(3) For each metal or other component of the shot or shot coating, determine the Estimated Environmental Concentration (EEC).

(i) Determine the EEC in a terrestrial ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 hectare (ha) (107,639 square feet (ft²)) of soil 5 centimeters (cm) (1.97 in) deep. Assess whether the EEC would exceed the clean soil standards for the Use or Disposal of Sewage Sludge at 40 CFR part 503. Explain how the estimated EEC relates to the toxicity thresholds for plants, invertebrates, and other wildlife.

(ii) Determine the EEC in an aquatic ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 ha, or

107,639 ft², of water 1 ft (30.48 cm) deep. Express the calculated concentrations in standard units such as micrograms per liter, for water with pH of 6.5 to 9.0. Explain how the estimated EEC compares to the U.S. Environmental Protection Agency (EPA) Water Quality Criteria and toxicity thresholds in plants, invertebrates, fish, and wildlife.

(4) Conduct a risk assessment using the Quotient Method. Calculate the risk of the submitted shot material, the EEC/the Toxicological Level of Concern. For example, compare the EEC in parts per million (p/m) to an effect level such as the LD50 in p/m. Use the following criteria to assess the risk of the components of the shot or shot coating.

If the risk ratio is	then
less than 0.1,	adverse effects are not likely.
0.1 to 10.0,	adverse effects are possible.
greater than 10.0,	adverse effects are likely.

(h) *In vitro* evaluation. You must evaluate the candidate shot type or shot coating in a standardized test under conditions that will assess its erosion and any release of components into a liquid medium in an environment simulating the conditions of a waterfowl gizzard (see W.H. Kimball and Z.A. Munir, 1971, The corrosion of lead shot in a simulated waterfowl gizzard, *Journal of Wildlife Management* 35:360–365) for basic test procedures. Compare the erosion characteristics to those of lead shot and steel shot of comparable size.

(1) *Test materials.* You will need appropriate analysis equipment, such as for atomic absorption spectrophotometry or inductively coupled plasma mass spectrometry, a drilled aluminum block to support test tubes, a thermostatically controlled stirring hot plate, small Teflon®-coated magnets, hydrochloric acid of pH 2.0, pepsin, capped test tubes, and U.S. No. 4 lead, steel, and candidate shot type or shot with the proposed coating.

(2) *Test procedures.*

(i) Add hydrochloric acid and pepsin to each capped test tube at a volume and concentration that will erode a single U.S. No. 4 lead shot at the rate of 5 mg per day.

(ii) Place three test tubes, each containing lead shot, steel shot, or the

candidate shot type or shot with the proposed coating in an aluminum block on the stirring hot plate. Add a Teflon®-coated magnet to each test tube and set the hot plate at 42 degrees Centigrade and 500 revolutions per minute.

(iii) Determine the erosion of shot or shot with the proposed coating daily for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer.

(iv) Replicate the 14-day procedure five times.

(3) *Test analyses.* Compare erosion rates of the three types of shot by appropriate analysis of variance and regression procedures. The statistical analyses will determine whether the rate of erosion of the shot and/or shot coating is significantly greater or less than that of lead and/or steel shot. This determination is important to any subsequent toxicity testing.

(i) *Tier 1 application review.* Upon receipt of your completed Tier 1 application, we will promptly perform an overview. We will notify you within 30 days of receipt that our thorough review of the application will commence, and we will complete our review within 60 days of the date of publication. We will use half of the LD50/ft² in terrestrial and aquatic systems as the level of concern in evaluating your application.

(j) *Approval after Tier 1 testing.* If we determine that the Tier 1 data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a \$20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the FEDERAL REGISTER stating that we intend to approve this shot or shot coating as nontoxic and provide the public with the opportunity to comment on our decision. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 1.

(2) If, after considering public comment on the proposed rule, we conclude that the shot or shot coating does not pose a significant toxicity danger to

migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the FEDERAL REGISTER and addition of the shot or coating to the list in § 20.21(j).

(k) *Additional testing.* If we conclude that the Tier 1 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will advise you to proceed with some or all of the additional testing described for Tier 2, Tier 3, or both.

(1) We will inform you that we consider the Tier 1 test results to be inconclusive. We will request Tier 2, and possibly Tier 3, testing before we evaluate the shot any further.

(2) If you choose not to do further testing, we will deny approval of the candidate shot type or shot coating.

(l) *Tier 2 application fee.* The fee for consideration of a Tier 2 application is \$1,530. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(m) *Tier 2 testing.* Your Tier 2 testing procedures must be in compliance with the Good Laboratory Practice Standards (40 CFR part 160) except where they conflict with the requirements in this section or with a provision of an approved plan. We reserve the right for us or an authorized representative to inspect your laboratory facilities. We will not approve the plan and will cease further consideration of the candidate shot type if the laboratory does not meet the Good Laboratory Practice Standards.

(n) *Tier 2 plan review.* We will review the Tier 2 testing plan you submit within 30 days of the day on which we receive it. We may decline to approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will inform you regarding what parts, if any, of the submitted testing procedures to disregard and any modifications to incorporate into the Tier 2 testing plan to gain plan approval. After we accept your plan, you may conduct Tier 2 testing.

(o) *Tier 2 in vivo evaluation.* Conduct a 30-day acute toxicity test in mallards using the following method unless we

specify otherwise. The testing should be done in accordance with Good Laboratory Practices Standards at 40 CFR part 160.

(1) *Test materials.* You will need 30 male and 30 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 60 elevated outdoor pens equipped with feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; commercial duck maintenance mash; and lead, steel, and candidate shot type.

(2) *Test procedures.*

(i) House the mallards individually in pens and give them unrestricted access to food and water.

(ii) After 3 weeks, randomly assign them to 3 groups of 10 males and 10 females per group. Dose each duck with 8 pellets of either U.S. No. 4 lead shot (positive control), steel shot (negative control), or the candidate shot type or shot with the proposed coating.

(iii) Fluoroscope each bird at 1 week after dosing to check for shot retention.

(iv) For 30 days, observe the birds daily for signs of intoxication and mortality.

(v) Determine the body weight for each bird at the time of dosing and at days 15 and 30.

(vi) On days 15 and 30, collect blood by venipuncture and determine hematocrit, hemoglobin concentration, and other measures of blood chemistry.

(vii) Euthanize all survivors on day 30. Remove the liver and other appropriate organs from each bird and those from birds that died prior to day 30.

(viii) Analyze the organs for lead and compounds contained in the candidate shot type or shot with the proposed coating.

(ix) Perform a necropsy of all birds to determine any gross and/or microscopic pathological conditions.

(x) Weigh all recovered shot and determine shot erosion.

(3) *Test analyses.*

(i) Analyze mortality among the specified groups with appropriate statistical procedures, such as chi-square, with $\alpha = 0.05$, and $\beta = 0.8$.

(ii) Analyze physiological data and tissue contaminant data by analysis of

variance or other appropriate statistical procedures to include the factors of shot type and sex, with $\alpha = 0.05$ and $\beta = 0.8$.

(iii) Compare euthanized birds and birds that died prior to day 30 whenever sample sizes are adequate for meaningful comparison.

(p) *Daphnia and fish early-life toxicity tests.* Determine the toxicity of the compounds that comprise the shot or shot coating (at conditions maximizing solubility without adversely affecting controls) to selected invertebrates and fish. These methods are subject to the environmental effects test regulations developed under the authority of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), as follows:

(1) The first test, the *Daphnia* (*Daphnia species*) Acute Toxicity Test, must be conducted in accordance with 40 CFR 797.1300. It provides data on the acute toxicity of chemical substances. The guideline prescribes an acute toxicity test in which *Daphnia* are exposed to a chemical in static and flow-through systems for assessing the hazard the compound(s) may present to an aquatic environment.

(2) The second test, the *Daphnia* Chronic Toxicity Test, must be conducted in accordance with 40 CFR 797.1330. It provides data on the chronic toxicity of chemical substances in which *Daphnia* are exposed to a chemical in a renewal or flow-through system. The data from this test also are used to assess the hazard that the compound(s) may present to an aquatic environment.

(3) The third test, the Fish Early-Life-Stage Toxicity Test, must be conducted in accordance with 40 CFR 797.1600. It assesses the adverse effects of chemical substances to fish in the early stages of their growth and development. Data from this test also are used to determine hazards of the compound(s) in an aquatic environment.

(q) *Evaluation of Tier 2 testing.* If, after Tier 2 testing, you wish to continue the application process, send the Tier 2 testing results and analyses to us. You must ensure that copies of all the raw data and statistical analyses accompany the laboratory reports and final comprehensive report of this test. We will review the data within 60 days

of the day on which we receive your Tier 2 application materials.

(r) *Approval after Tier 2 testing.* If we determine that the Tier 2 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a \$20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the FEDERAL REGISTER stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 2.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the FEDERAL REGISTER and subsequent addition of the shot or coating to the list in § 20.21(j).

(s) *Additional testing.* If we conclude that the Tier 2 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, or if public comment on the proposed rule indicates that we should require further testing, we will advise you to proceed with the additional testing described for Tier 3. We will require Tier 3 testing before we evaluate the shot any further. If you choose not to do Tier 3 testing, we will deny approval of the candidate shot type or shot coating.

(t) *Tier 3 application fee.* The fee for consideration of a Tier 3 application is \$1,530. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(u) *Tier 3 testing.* We will review your Tier 3 testing plan within 30 days of the day on which we receive it. All testing procedures in the plan should be in compliance with the Good Laboratory Practice Standards (40 CFR part 160), except where they conflict with the requirements in this section

or with a provision of an approved plan. We, or our authorized representative, may elect to inspect your laboratory facilities and may decline to approve the plan and further consideration of the candidate shot type and/or shot coating if the facility is not in compliance with the Good Laboratory Practice Standards.

(1) We will not approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will tell you what parts, if any, of the submitted testing procedure to disregard, and any modifications to incorporate into the Tier 3 plan needed for us to approve it.

(2) After acceptance of the plan, you may conduct the Tier 3 testing. You must ensure that copies of the raw data and the statistical analyses accompany the laboratory reports and final comprehensive report on this test.

(i) *Chronic toxicity test.* This is a long-term toxicity test under depressed temperature conditions using a nutritionally deficient diet. Conduct a chronic exposure test under adverse conditions that complies with the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 36 male and 36 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 72 elevated outdoor pens equipped with feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn; and lead, steel, and candidate shot type or shot with the proposed coating.

(B) *Test procedures.* (1) Conduct this test at a location where the mean monthly low temperature during December through March is between 20 and 40 degrees Fahrenheit (-6.6 and 4.4 degrees Centigrade, respectively).

(2) Assign individual mallards to elevated outdoor pens during the first week of December and give them an unrestricted diet of whole kernel corn for 2 weeks.

(3) Randomly assign birds to five groups—a lead group of 4 males and 4 females, and 4 other groups of 8 males and 8 females per group.

(4) Dose each bird in the lead group (the positive control) with one U.S. No. 4 pellet of lead shot. Dose each bird in one group of 8 males and 8 females with 8 U.S. No. 4 pellets of steel shot (the negative control). Dose each bird in 1 remaining group of 8 males and 8 females with one U.S. No. 4 pellet of the candidate shot type or shot with the proposed coating, each bird in 1 of the remaining 2 groups of 8 males and 8 females with 4 U.S. No. 4 pellets of the candidate shot type or shot with the proposed coating, and each bird in the final group of 8 males and 8 females with 8 U.S. No. 4 pellets of the candidate shot type or shot with the proposed coating.

(5) Weigh and fluoroscope the birds weekly.

(6) Weigh all recovered shot and determine shot erosion.

(7) Determine blood parameters given in the 30-day acute toxicity test. Provide body weight and blood parameter measurements on samples drawn at 24 hours after dosing, and at the end of days 30 and 60.

(8) Remove the liver and other appropriate organs from all birds that die prior to day 60.

(9) At the end of 60 days, euthanize all survivors. Remove the liver and other appropriate organs from the euthanized birds. Analyze the organs for lead and other metals in the candidate shot type or shot coating.

(10) Necropsy all birds that died prior to day 60 to determine any gross and/or microscopic pathological conditions associated with their deaths.

(C) *Test analyses.* (1) Analyze mortality among the specified groups with appropriate chi-square statistical procedures. Any effects on the previously mentioned physiological parameters caused by the shot or shot coating must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot, with $\alpha = 0.05$, and $\beta = 0.8$.

(2) Analyze physiological data and tissue contaminant data by analysis of variance or appropriate statistical procedures to include the factors of shot type, dose, and sex with $\alpha = 0.05$, and $\beta = 0.8$.

(3) Compare euthanized birds and birds that died prior to being

euthanized whenever sample sizes are adequate for a meaningful comparison.

(ii) *Chronic dosing study.* This moderately long-term study includes an assessment of reproduction. Conduct a chronic exposure reproduction trial within the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 44 male and 44 female hand-reared first-year mallards with plumage and body conformation of wild mallards; pens suitable for quarantine and acclimation and for reasonably holding 5 to 10 ducks each; 44 elevated pens equipped with feeders, waterers, and nest boxes; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn, and commercial duck maintenance and breeder mash; and U.S. No. 4 lead, steel, and candidate shot type or shot with the proposed coating.

(B) *Test procedures.* (1) In December, randomly assign the mallards to 3 groups—a positive control group of 4 males and 4 females that will be tested with lead; a negative control group of 20 males and 20 females that will be tested with steel; and a final group with 20 males and 20 females that will be tested with the candidate shot type or shot with the proposed coating. Hold the ducks in same-sex groups until mid-January. If the test is not conducted in the northern United States or comparable latitudes, the test must be completed in low-temperature units.

(2) After a 3-week acclimation period in which the ducks are fed with commercial maintenance mash, provide them an unrestricted diet of corn for 60 days and then pair them, put one pair in each pen, and provide them with commercial breeder mash.

(3) After the acclimation period, dose each bird in the lead group with 1 pellet of U.S. No. 4 lead shot, each bird in one of the groups of 20 males and 20 females with 8 pellets of U.S. No. 4 steel shot, and each bird in the remaining group of 20 males and 20 females with 8 pellets of U.S. No. 4 candidate shot type or shot with the proposed coating.

(4) Redose each bird with the appropriate shot after 30, 60, and 90 days. Few, if any, of the lead-dosed birds should survive and reproduce.

(5) Fluoroscope each bird 1 week after dosing it to check for shot retention.

(6) Weigh each bird the day of initial dosing (day 0), at each subsequent dosing, and at death.

(7) Collect a blood sample from each bird on the days on which it is dosed and immediately prior to euthanizing it.

(8) Check nests daily and collect any eggs laid. Note the date of first egg laid and the mean number of days per egg laid. Conclude monitoring of laying after 21 normal, uncracked eggs are laid or after 150 days.

(9) Collect eggs and discard any eggs laid before pairing.

(10) Euthanize the adults after they complete laying or after 150 days.

(11) Remove the liver and other appropriate organs from each euthanized bird and from each bird that dies prior to being euthanized.

(12) Analyze the organs and the eleventh egg for compounds contained in the shot or shot coating.

(13) Necropsy all the birds to determine any gross and/or microscopic pathological conditions that affected them.

(14) Artificially incubate the normal eggs and calculate the percent shell thickness for each (compared to typical shell thickness), the percent of eggs cracked, the percent fertility (as determined by candling), and the percentage of fertile eggs hatched for each female.

(15) Provide ducklings that hatch with starter mash. Euthanize all ducklings at 14 days of age.

(16) Determine survival to day 14 and weight of the ducklings at hatching and at being euthanized.

(17) Measure duckling blood for hemoglobin concentration and other blood chemistries using blood samples drawn when the ducklings are euthanized.

(C) *Test analyses.* Any mortality, reproductive inhibition, or effects on physiological parameters due to the shot or shot coating must not be significantly greater than those caused by steel shot. If necessary, transform percentage data with an arcsine, square root, or other suitable transformation prior to statistical analyses. Analyze the physiological and reproductive

data with one-tailed *t*-tests or other appropriate statistical procedures with $\alpha = 0.05$, and $\beta = 0.8$.

(v) *Evaluation of Tier 3 testing.* Report the results of your Tier 3 testing to us. We will review the data within 60 days of the day on which we receive your Tier 3 application materials. You must ensure that copies of the raw data and the statistical analyses accompany the laboratory reports and final comprehensive report on this test.

(w) *Approval after Tier 3 testing.* If we determine that the Tier 3 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a \$20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the FEDERAL REGISTER stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 3.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the FEDERAL REGISTER and subsequent addition of the shot or coating to the list in § 20.21(j).

(x) *Additional testing after Tier 3.* If we conclude that the Tier 3 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we may ask you to repeat tests we deem inconclusive. If you choose not to repeat the tests, we will deny approval of the candidate shot type or shot coating.

(y) *Denial after Tier 3 testing.* If we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you that we deny approval of the candidate shot type or shot coating.

(z) *Withdrawal of the approval of a shot type or shot coating.* If we find that an approved shot type or shot coating is not readily detectable in the field or has environmental effects or direct toxicological effects on biota, we may withdraw our approval of the shot type or shot coating. This includes any previously approved shot type or shot coating.

(1) We may consult the Service Law Enforcement Laboratory to determine whether any particular shot type or shot coating is readily detectable in the field by law enforcement officers. If the shot type is not readily detectable in the field, we will give the shotshell producer 180 days to remedy the situation by improving either the shot or the detection method.

(2) We may consider new evidence, consistent with the provisions of the Migratory Bird Treaty Act and the Information Quality Act (Pub. L. 106-554, 2001; Office of Management and Budget Guidance, 67 FR 8452-8460, February 22, 2002) that shows that an approved shot type or shot coating has significant environmental effects or direct toxicological effects that were not known when we approved the shot type or shot coating.

(3) After the 180-day period for a shot type that cannot be tested in the field (see paragraph (z)(1) of this section), or at any time after we learn of significant environmental effects or direct toxicological effects, we will publish a notice in the FEDERAL REGISTER informing manufacturers and the public of our pending withdrawal of the approval of the shot type or shot coating. We will revise the table of approved shot types at § 20.21(j) to reflect the withdrawal of the approval, to be effective on January 1st, after allowing manufacturers 1 full calendar year to prepare for the change.

[78 FR 78280, Dec. 26, 2013]

Subpart M [Reserved]

Subpart N—Special Procedures for Issuance of Annual Hunting Regulations

SOURCE: 46 FR 62079, Dec. 22, 1981, unless otherwise noted.

§ 20.151

§ 20.151 Purpose and scope.

The rules of this subpart N apply to the issuance of the annual regulations establishing seasons, bag limits, and other requirements for the seasonal hunting of migratory birds. The rules of this subpart N do not apply to the issuance of regulations under part 21 of this title or under subparts A through J and L through M of this part 20.

§ 20.152 Definitions.

As used in this subpart N:

(a) *Flyway Council* means the Atlantic, Mississippi, Central, or Pacific Flyway Council;

(b) *Regulations Committee* means the Migratory Bird Regulations Committee of the Fish and Wildlife Service; and

(c) *Significant*, as used in reference to a communication or other form of information or data, means related to the merits of the regulation and received, utilized, or transmitted by an official of the Department who is or may reasonably be expected to be involved in the decisional process on the regulation.

§ 20.153 Regulations committee.

(a) *Notice of meetings*. Notice of each meeting of the Regulations Committee to be attended by any person outside the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of public involvement.

(b) *Public observation and written comment*. Each meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section will be open to the public for observation and the submission of written comments.

(c) *Public participation*. Except for the mid-summer meetings held in Washington, DC, in conjunction with the public hearing on waterfowl and other late season frameworks, the public may participate in any meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section through the submission of oral statements that comply with the rules stated in the notice.

(d) *Minutes of meetings*. Minutes will be made of each meeting of the Regula-

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tions Committee for which notice is published pursuant to paragraph (a) of this section.

§ 20.154 Flyway Councils.

(a) *Notice of meetings*. Notice of each meeting of a Flyway Council to be attended by any official of the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting or as soon as practicable after the Department learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

(b) [Reserved]

§ 20.155 Public file.

(a) *Establishment*. A public file will be established for each rulemaking to which this subpart N is applicable.

(b) *Contents*. Except for information exempt from disclosure under 5 U.S.C. 552, a public file established pursuant to paragraph (a) of this section will contain:

(1) The minutes of Regulations Committee meetings made pursuant to paragraph (d) of § 20.153;

(2) Any written comments and other significant written communications which occur after the notice of proposed rulemaking;

(3) Summaries, identifying the source, of any significant oral communications which occur after the notice of proposed rulemaking; and

(4) Copies of or references to any other significant data or information.

PART 21—MIGRATORY BIRD PERMITS

Subpart A—Introduction

Sec.

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21.14 Permit exceptions for captive-bred migratory waterfowl other than mallard ducks.